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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 26th April, 1985:—

BILL NO. 95 OF 1985

A Bill further to amend the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Amendment Act, 1985.

(2) It shall come into force at once.

Amendment of section 2.

32 of 1966.

2. In section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (hereinafter referred to as the principal Act),—

(*a*) for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "contractor" means a person, who in relation to a manufacturing process of beedi or cigar or both, undertakes to produce a given result for the employer by executing the work through contract labour or who supplies contract labour for any work in connection with a manufacturing process or who

engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, sattedar, agent, munshi, thekedar or the like.".

(*ii*) for clause (*f*), the following clause shall be substituted, namely:—

"(*f*) 'employee' means any person who is employed for wages of any kind to do any kind of work, manual or otherwise, in or in connection with the manufacturing process of beedi or cigar or both of an establishment and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with any manufacturing process of beedi, cigar or both and also includes,—

(*a*) any person who is given raw materials by an employer or a contractor for being made into beedi or cigar or both at home (hereinafter referred to in this Act as 'home worker'), and

(*b*) any person not employed by an employer or a contractor but working with the permission of or under agreement with, the employer or contractor or both.";

(*iii*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) 'employer' means,—

(*a*) holder of a licence under section 3 of this Act;

(*b*) in relation to contract labour, the principal employer; and

(*c*) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs where any manufacturing process of beedi or cigar or both is in operation in accordance with the provisions of sections 3 and 4 of this Act, and includes any other person to whom the affairs of the establishment are entrusted, whether such other person is called the management agent, manager, superintendent or by any other name."

(*iv*) in clause (*k*), the following shall be added at the end, namely,—

"for which licence under sections 3 and 4 of this Act has been issued."

(*v*) for clause (*m*), the following clause shall be substituted, namely:—

"(*m*) 'principal employer' means a person for whom or on whose behalf contractor engages or employs any contract labour in an establishment for which licence under sections 3 and 4 of this Act has been issued for manufacturing of beedi or cigar or both."

(*vi*) for clause (*n*), the following clause shall be substituted, namely:—

"(*n*) 'private dwelling house' means a house in which contract labour engaged by a contractor on behalf of the principal employer or by the principal employer himself for manufacturing of beedi or cigar or both reside."

Substitution of section 3.

3. For section 3 of the principal Act, the following section shall be substituted, namely,—

Industrial premises to be licensed.

"3. Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises for the purpose of manufacturing process of beedi or cigar or both unless he holds a valid licence issued under this Act and such premises shall not be used except in accordance with the terms and conditions of such licence; and till a declaration on oath is made as to how the final produce shall reach the ultimate consumer.".

Amendment of section 4.

4. In section 4 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted namely,—

"(*3A*) The competent authority shall, before granting a licence to an applicant, obtain the following declarations, namely:—

(*a*) a declaration by the principal employer, or holder of trade mark for label, furnishing information regarding the industrial premises and the number of workers to be employed, registration number with the local authority, supply of identity cards to individual workers, alongwith an undertaking that he is not directly or indirectly involved in the manufacturing process of beedi or cigar or both in any place other than the place for which he had applied for;

(*b*) a declaration by the principal employer that such manufactured products will be sold only through selected shops in selected places to the ultimate consumers after registering with the local authority";

'(*c*) a declaration from the principal employer that he shall buy the required tobacco or tobacco leaves only from the registered sellers of tobacco or of tobacco leaves, who shall record the licence number of the principal employer in the sale receipts of every such sale of tobacco or tobacco leaves;'

"(*d*) a declaration in cases of workers' cooperatives, to the effect that the applicant for the licence under sections 3 and 4 of this Act, is a Workers' Co-operative;"

(*e*) a declaration to the effect that the applicant shall abide by all relevant laws of the land.".

STATEMENT OF OBJECTS AND REASONS

Beedi manufacturing industry is one of the primary industries of the country. More than 50 lakh employees are employed in this industry. The existing legislation to control the industry is full of loopholes which enable the manufacturers to escape from their responsibilities. The provisions regarding agents, Munshis, etc. help the manufacturers to escape all responsibilities. When the workers demand their minimum dues, the principal employer escapes by saying that he is not their employer while the agents, munshis, or contractors etc. pass on the responsibility to the principal employers and thereby the workers are deprived of the minimum wages due to them. Therefore, this provision should be done away with.

Moreover, there are several loopholes in the issuance of Licences to the applicants for manufacture of beedi, cigar or both. The manufacturers take advantage of the loopholes and thus workers suffer very much. The system of issuing licences should be made stricter so as to check the existing loopholes.

Hence this Bill.

NEW DELHI;
March 14, 1985.

AJIT KUMAR SAHA

BILL NO. 80 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985. Short title.

2. In the Eighth Schedule to the Constitution, entries 10 to 15 shall re re-numbered as entries 11 to 16 respectively, and before entry 11 as so re-numbered, the entry "10. Pahari (Kumaoni and Garhwali)." shall be inserted. Amendment of eighth Schedule.

STATEMENT OF OBJECTS AND REASONS

Pahari (Kumaoni-Garhwali) is the language of the people of U.P. Hills and has been recorded as such in the various census returns.

Pahari has a rich literary tradition spreading over centuries. There are nearly 400 writers who have enriched the Pahari literature with their creative works like poems, plays, short stories, prose, articles and translations from other languages.

It is, therefore, desirable that Pahari (Kumaoni and Garhwali) is included in the Eighth Schedule to the Constitution of India.

Hence this Bill.

NEW DELHI; HARISH RAWAT

March 16, 1985.

BILL No. 86 OF 1985

A Bill to provide for reservation of posts in the services of Central Government and public undertakings and seats in all types of educational institutions for people belonging to economically backward areas.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Reservation of Posts in Services and Seats in Educational Institutions (for People Belonging to Economically Backward Areas) Act, 1985.

(2) It shall come into force at once.

Definitions.

2. In this Act,—

(*a*) "economically backward areas" means areas declared backward by Planning Commission, consisting of all hill areas of Himalayan region;

(*b*) "family" means and includes the husband, wife and three dependent children;

(c) "people" means all inhabitants of the said economically backward areas.

Reservation of posts in Government services, etc.

3. In Central Government services and public undertakings, thirty-three per cent. of posts shall be reserved for candidates belonging to economically backward areas.

Reservation of seats in educational and training institutions.

4. In all types of educational and training institutions, thirty-three per cent. of seats shall be reserved for candidates belonging to economically backward areas and all expenditure on the education and training shall be borne by the Central Government.

Benefit under the Act to be given only once.

5. The benefits under this Act shall be provided to a family only once in each category.

STATEMENT OF OBJECTS AND REASONS

People living in economically backward areas of the country continue to suffer from abject poverty. Though there has been a lot of industrial and economic development in the country since independence, yet some of the areas in the country remain deprived of the benefits of this development. Hill areas of the Himalayan region have been declared by the Planning Commission as backward areas. There are few industries and little economic activity in these areas. As a result, the people belonging to these areas find it very difficult to earn their livelihood. It is, therefore, appropriate that posts are reserved in the services of the Central Government and public undertakings and in all types of educational institutions for people belonging to economically backward areas. It will go a long way to improve the economic conditions of these people. These areas have their own specific problems. If the people belonging to these areas are taken in larger number in Government services, it will help solve their problems in a better way as they understand their problems in a better perspective. It will also help their educational advancement.

Hence this Bill.

NEW DELHI;
March 21, 1985.

HARISH RAWAT

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall bear all expenditure on the education and training of people belonging to the economically backward areas. The Bill, therefore, if enacted, is likely to involve a recurring expenditure approximately of rupees fifty crores from the Consolidated Fund of India per annum.

It is estimated that a non-recurring expenditure of rupees fifty crores is likely to be incurred.

BILL NO. 81 OF 1985

A Bill to amend the Equal Remuneration Act, 1976.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Equal Remuneration (Amendment) Act, 1985.

Amendment of section 10.

2. In section 10 of the Equal Remuneration Act, 1976 (hereinafter referred to as the principal Act), 25 of 1976.—

(*i*) in sub-section (*1*), for the words "he shall be punishable with fine which may extend to one thousand rupees.", the words "he shall be punishable with imprisonment which shall not be less than five years but which may extend to fifteen years and shall also be liable to fine which shall not be less than fifteen thousand rupees." shall be substituted;

(*ii*) in sub-section (*2*), for the words "he shall be punishable with fine which may extend to five thousand rupees.", the words "he shall be punishable with imprisonment which shall not be less than five years but which may extend to fifteen years and shall also be liable to fine which shall not be less than twenty-five thousand rupees." shall be substituted;

(*iii*) in sub-section (*3*), for the words "with fine which may extend to five hundred rupees.", the words "with fine which shall not be less than ten thousand rupees." shall be substituted;

(*iv*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) If, after the commencement of this Act, any employer maintains—

(*a*) different grades of wages for men and women workers;

(*b*) different criteria for distribution of job among men and women workers;

(*c*) different standards for men and women workers regarding—

(*i*) retrenchment,

(*ii*) termination,

(*iii*) dismissal,

(*iv*) promotion,

(*v*) making temporary hands as permanent or the like,

it shall be considered discriminatory and he shall be punishable with imprisonment which shall not be less than five years but which may extend to fifteen years and shall also be liable to fine which shall not be less than five thousand rupees but which may extend to fifteen thousand rupees.".

Amendment of section 11.

3. In section 11 of the principal Act, in sub-section (*1*) the proviso shall be omitted.

Amendment of section 12.

4. In section 12 of the principal Act,—

(*i*) in sub-section (*2*), the following words shall be added at the end, namely:—

"or upon a complaint made by the registered trade unions of the establishment.";

(*ii*) in sub-section (*3*), the following words shall be added at the end, namely:—

"and in case the complaint is not made within three months, the registered trade unions of the establishment shall be competant to make the complaint.".

STATEMENT OF OBJECTS AND REASONS

The Equal Remuneration Act, 1976 was enacted to give effect to the provisions of article 39 of the Constitution, which envisages that the State shall direct its policies, among other things, towards securing equal pay for equal work, both for men and women. But after nine years of its enactment, it is seen in practice that the employers are bypassing the provisions of the Act, taking advantage of the extreme unemployment situation that is prevailing in the country. This needs stringent penal provisions with examplary penalties for the defaulters.

Hence this Bill.

NEW DELHI;
March 15, 1985.

BIBHA GHOSH GOSWAMI

BILL NO. 93 OF 1985

A Bill to provide for the welfare of persons who are born handicapped disabled or mentally retarded.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Welfare of Handicapped, Disabled and Mentally Retarded Persons Act, 1985.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Disabled persons, etc. to be taken care of by the Central Government.

2. (*1*) **All persons who are born as disabled, handicapped, mentally retarded or are declared mentally retarded shall be taken care of by the Central Government.**

(*2*) **All expenses for bringing up, education and training for employment and sheltered habitation of disabled, handicapped and mentally retarded persons shall be borne by the Central Government.**

Welfare centres to take possession of disabled persons.

3. All welfare centres in the country shall be authorised to take possession of such persons who are noticed as disabled, handicapped or mentally retarded and are found to be unattended or neglected by their parents or are handed over to a welfare centre by the parents themselves.

Employment to disabled, etc.

4. The Central Government shall provide suitable employment to all such persons who are disabled, handicapped or mentally retarded on their attaining the age of eighteen years.

Power to make Rules.

5. (*1*) The Central Government may make rules for carrying out the purposes of this Act and in particular for taking possession of persons who are disabled, handicapped or mentally retarded.

(*2*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It has been found that the number of children born in India as handicapped, disabled or mentally retarded has been increasing from time to time. These children are not properly looked after by the families. In fact, due to the draw-back they suffer from, they deserve the care of the Government even after they attain majority. Sufficient provisions have not been made so far for their welfare and they are not treated well in the society. It is, therefore, necessary to enact legislation for the welfare of such children. This may give them a feeling of equality and prosperity in comparison to others and Government should make provision for their welfare and betterment so that they can enjoy the freedom of the country.

Hence this Bill.

NEW DELHI;
March 23, 1985.

B. V. DESAI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all expenses for bringing up such persons who are born as disabled, handicapped or mentally retarded and for their education, etc. will be borne by the Central Government. Clause 4 requires the Government to make provision for suitable employment of such children on their attaining the age of eighteen years. The Bill, therefore, if enacted, is likely to involve recurring expenditure of about Rs. 50 crores from the Consolidated Fund of India.

A non-recurring expenditure of Rs. 10 crores is also likely to be incurred in this connection.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL NO. 90 OF 1985

A Bill to prevent unauthorised writings on the walls in Union territories.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows—

Short title, extent and commencement.

1. (*1*) This Act may be called the Union territories (Prevention of Unauthorised Writings on the Walls Act, 1985.

(*2*) It extends to all the Union territories.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "building" means any private or public building, owned or in any permissive possession of any person, used for any residential, public, commercial or industrial purpose;

(*b*) "walls" means walls built or constructed around the building, with any material, with gates, window openings, etc.;

(c) "writings" means all writings of any nature, whether social, cultural, political, economic, commercial or industrial, written on walls, in any colour or in black and white, either by hand or by mechanical means or on paper or poster, printed or written, and pasted on the walls or on boards or buntings abutting the walls.

Punishment for defacing walls.

3. (1) Whoever, either for himself or by himself or for others or through others, causes any writing to be made on the walls of any building, without specific permission, in writing, of the owner or the occupier, shall be liable to be tried in the Court of a Metropolitan Magistrate or a Judicial Magistrate of the First Class and be punished with imprisonment for a term not exceeding one month or with fine not exceeding one hundred rupees, or with both.

(2) The fine so collected shall be paid to the owner or the occupier of the building.

Power to make rules.

4. (1) The Central Government may, by notification in the Official Gazette, made rules to carry out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It is an invasion on the right to property to cause any writings to be made on the walls of buildings whether private or public. It has become a menace to society. The owners or occupiers of buildings are put to mental torture and financial loss. It is not only an invasion of the right of an individual but also spoils the beauty, serenity and cleanliness of the place. Such writings divert the attention of people and result in indiscipline and mental illhealth of the youth, causes restlessness in society and leads to law and order and traffic problems for the State.

Hence this Bill.

NEW DELHI;
March 23, 1985.

N. VENKATARATNAM

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules to carry out the purpose of this Act, which will be mostly of procedural nature. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 89 OF 1985

A Bill further to amend the Specific Relief Act, 1963.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Specific Relief (Amendment) Act, 1985.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 14.

2. In section 14 of the Specific Relief Act, 1963, in sub-section (*1*), in clause (*b*), the following proviso shall be inserted, namely:— 47 of 1963.

"Provided that this clause shall not apply in a case in which the dismissal, removal or dispensation of the service of an employee is declared illegal by a competent court of law.".

STATEMENT OF OBJECTS AND REASONS

Clause (b) of sub-section (1) of section 14 of the Specific Relief Act, 1963, has proved oppressive. It has given arbitrary powers to the employers. There have been innumerable cases in each of which the long period of service of an employee has been washed away by wholly arbitrary and totally illegal orders of removal of the employee from service. This provision of law has also helped the employers in getting rid of employees with longer periods of service with a view to employing fresh hands and thus be benefited in terms of money.

As things stand, even in a case in which an employee has been dismissed for no rhyme or reason, it will not be possible for the court to grant a decree of reinstatement unless he is an employee of the Government or of a statutory body or the dismissal is set aside by an Industrial Tribunal. It has, therefore, become necessary to amend the aforesaid provision of law.

Hence this Bill.

NEW DELHI;
March 26, 1985.

VIRDHI CHANDER JAIN

BILL NO. 91 OF 1985

A Bill to provide for payment of pension to destitute widows.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Widows' Pension Act, 1985.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "competent authority" means the Collector of a district or such other authority as may be prescribed or empowered by the Central Government for determination and sanction of pension under this Act;

(*b*) "destitute" in relation to a widow means a woman who has no relative or kinsman to support or provide her livelihood including the livelihood to her minor children dependent on her;

(*c*) "pension" means the amount which may be sanctioned in favour of a widow for her maintenance under this Act or any other law for the time being in force;

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "widow" means a female citizen of India who has attained the age of eighteen years and whose husband has died after her legal marriage.

Eligibility for pension

3. Any widow who has become destitute, having no son who has attained the age of twenty years or is having a son who has attained such age but who is incapable of earning his livelihood due to his physical or mental disability and infirmity, shall be eligible for a pension;

Provided that such widow shall not be eligible for the said pension if—

(*a*) she is employed in any service and receives regular salary from such service; or

(*b*) she holds movable and immovable property including residential house worth such amount as may be prescribed from time to time; or

(*c*) she has a regular yearly income of more than twelve hundred rupees either in kind or in cash from agriculture, horticulture, animal husbandry, cottage industry, or rent from any immovable property or from any Government pension; or

(*d*) she has become an acknowledged concubine of another man.

Explanation.—A widow residing with her in-laws or parents according to her custom or due to other circumstances, shall not be debarred from getting pension on the ground of such residence or on the ground of her having an undivided share in the joint property of her collaterals or brothers.

Appointment of enquiry officers.

4. The Central Government shall appoint enquiry officers who shall help the competent authority in finalising the claims of pension made under this Act.

Application for pension.

5. (*1*) A widow desirous to get pension from the Central Government for her maintenance may apply to the competent authority in the prescribe form for grant of such pension.

(2) On receipt of the application form, the competent authority may, either make an enquiry or cause it to be made by any enquiry officer subordinate to it and after receiving the report from such officer, it may either determine the amount of pension payable to the applicant or reject her application.

Grant of pension.

6. The competent authority may grant a monthly pension of an amount which shall not be less than rupees seventy-five and which shall not be more than rupees one hundred twenty-five to a widow for her life or for such period, as may be deemed proper, and shall draw a pension payment order accordingly in favour of the applicant on a Government Treasury.

Miscellaneous provisions.

7. Whenever it is found that any widow has re-married after sanction of pension to her, or her son has attained the age of twenty years and has become capable of earning livelihood, or the widow has not remained eligible for pension on account of any of the grounds mentioned in section 3, the competent authority shall immediately withhold the pay-

ment of pension order and after serving show-cause notice on the concerned widow, the competent authority may pass appropriate orders for stopping the pension of such widow.

Prosecution for misrepresentation.

8. (*1*) Whoever procures or abets in procuring pension by misrepresentation of facts or by making false declaration or by giving false information to or before the competent authority or any enquiry officer appointed under section 4, shall be punishable, on a complaint by such competent authority or enquiry officer, as the case may be, with imprisonment for a term which may extend to six months or with fine which may extend to rupees one thousand or with both.

(*2*) The competent authority on conviction of the widow shall order refund by her of such amounts as she had already received as pension.

Powers to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Saving provision.

10. This Act shall not affect the provisions of any other pension law for the time being in force but any widow deriving benefits under this Act shall not be entitled to get benefits under any other pension law.

STATEMENT OF OBJECTS AND REASONS

It is generally found that a large number of Indian women belonging to lower and middle income groups of our society become destitute after the death of their husbands, who do not leave major sons behind them. Sometimes conditions of such widows become so miserable due to poverty that unscrupulous persons of the society exploit the situation and make their lives disgraceful in the society. It is expedient to liquidate this evil from the society and to provide for pension to such widows from the State for rendering them reasonable financial assistance to carry on their livelihood honourably in accordance with the provisions embodied in articles 39 and 41 of the Directive Principles of State Policy in the Constitution of India.

This Bill seeks to achieve this objective.

NEW DELHI;
March 26, 1985.

VIRDHI CHANDER JAIN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every destitute widow shall be eligible for a pension. Clause 4 of the Bill provides for the appointment of enquiry officers. Clause 6 of the Bill envisages the payment of monthly pension ranging from Rs. 75 to Rs. 125 per month to the destitute widows. The number of such widows in the country may not be less than 50 lakhs. The grant of pension to such widows and payment of salary, etc. to enquiry officers would involve a recurring expenditure of approximately rupees six hundred crores per year. This expenditure will be met out of the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of rupees five lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill provides for the making of rules by the Central Government as may be required for the administration of the Act. These are matters of detail only and the delegation of legislative power is of a normal character.

BILL NO. 92 OF 1985

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1985.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of First Schedule.

2. In the First Schedule to the Code of Criminal Procedure, 1973, under the heading "I—Offences under the Indian Penal Code,"—

(*i*) In the entries relating to section 304A, in column 5, for the word "Bailable", the word "Non-bailable", shall be substituted;

(*ii*) in the entries relating to section 323, in column 4, for the word "Non-cognizable", the word "Cognizable", shall be substituted; and

(*iii*) in the entries relating to section 325, in column 5, for the word "Ditto", the word "Non-bailable", shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Whereas fatal accidents are increasing day by day due to rash and negligent driving of motor vehicles, many innocent persons are suddenly put to death without any fault on their part which cause permanent misery and agony in the happy families every day. But, there is no deterrent to check those offences. Such offences are punishable under section 304A of the Indian Penal Code 1860, which is bailable according to the First Schedule to the Code of Criminal Procedure, 1973. In such cases the police cannot detain the offender even upto the time of funeral of the deceased victim. This causes wide-spread resentment in the society. Most of the cases covered by section 304A arise from rash and negligent driving of vehicles. In order to check these offences and to convey a feeling of justice being done to the wronged family, it is expedient to make the offence under section 304A of the Indian Penal Code as "Non-bailable".

Again, it is generally found that most of the persons who are accused of an offence under section 323 of the Indian Penal Code, 1860, are not brought to book for want of cognizance by the police. According to the First Schedule of the Code of Criminal Procedure, 1973, the offence under section 323 is non-cognizable. As such victim of hurt is forced to file a complaint in the court where it is very difficult to get the case even registered without engagement of counsel and without undue delay. Incidents of causing hurt are increasing very fast in the society and thereby creating problems of law and order. Miscreants and goondas deliberately cause hurt to citizens even on the highway or in the public places, but such accused are beyond the jurisdiction of the police. This causes great harassment and agony to the injured persons. In order to eliminate this harassment and to check the increasing trend of commission of offences under section 323 of the Indian Penal Code, it is expedient to make this offence cognizable.

Lastly, it is realised for a long time that Indian Penal Code and the Code of Criminal Procedure have given more weight to the property of a person rather than his body. Again, there is no notional parity between the two kinds of grievous hurts as punishable under sections 325 and 326 of the Penal Code. If an accused inflicts grievous hurt on any part of the body by a sharp weapon, he shall be arrested and shall not be released on bail by the Magistrate whereas if an accused inflicts grievous hurt on the same part of the body but by a blunt weapon, he commits only a bailable offence and the police has to release him immediately. This has led to the increase of offences of grievous hurt as punishable under section 325 of the Code. Moreover, a sense of insecurity of person and injustice prevails amongst the injured persons. In order to check the commission of these offences, and to remove the aforesaid disparity and to create a feeling of justice to the injured person and to ensure fair investigation, it is expedient to make the offence under section 325 of the Indian Penal Code as 'Non-bailable'.

This Bill seeks to achieve these objectives.

NEW DELHI;
March 26, 1985.

VIRDHI CHANDER JAIN

BILL NO. 88 OF 1985

A Bill to provide for the abolition of the Legislative Council of the State of Andhra Pradesh and for matters supplemental, inhcidental and consequential thereto.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Andhra Pradesh Legislative Council (Abolition) Act, 1985.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

(*b*) "article" means an article of the Constitution;

(*c*) "Council" means the Legislative Council of the State of Andhra Pradesh;

(*d*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Andhra Pradesh;

(*e*) "Legislative Assembly" means the Legislative Assembly of the State of Andhra Pradesh.

Abolition of the Council.

3. (*1*) The Legislative Council of the State of Andhra Pradesh is hereby abolished.

(*2*) On the abolition of the Council, every member thereof shall cease to be such member.

Amendment of Article. 168.

4. In sub-clause (*a*) of clause (*1*) of article 168 for the words "in the States of Andhra Pradesh, Bihar", the words "in the States of Bihar", shall be substituted.

Amendment of Act 43 of 1950.

5. In the Representation of the People Act, 1950,—

(*a*) in the Third Schedule, entry No. 1 relating to Andhra Pradesh shall be omitted;

(*b*) in the Fourth Schedule, the heading "Andhra Pradesh" and the entries thereunder shall be omitted.

Omission of Section 3 of the Legislative Councils Act, 1957.

6. Section 3 of the Legislative Councils Act, 1957, shall be omitted. 37 of 1957.

Provision as to pending Bills.

7. (*1*) A Bill pending in the Council immediately before the commencement of this Act which has not been passed by the Legislative Assembly shall lapse on the abolition of the Council.

(2) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Andhra Pradesh in the form in which it was passed by the Legislative Assembly.

(3) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments; the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a Bill introduced in and passed by the Legislative Assembly after the commencement of this Act.

Power to adapt laws.

8. The appropriate Government may, before the expiration of one year from the commencement of this Act, by order, make such adaptations and modifications of any law made before such commencement whether by way of repeal or amendment as may be necessary or expedient in consequence of the abolition of the Council under section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

Power to construe laws.

9. Notwithstanding that no provision or insufficient provision has been made under section 8 for the adaptation or modification of a law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper no account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

STATEMENT OF OBJECTS AND REASONS

The Andhra Pradesh Legislative Assembly has passed a Resolution on the 24th March, 1983 by a majority of the total membership of the Assembly and a mhajority of not less than two-thirds of the members of the Assembly present and voting, for the abolition of the Legislative Council in the State of Andhra Pradesh. In view of this Resolution, it is necessary to enact a law to give effect to the clearly expressed verdict of the people of Andhra Pradesh in January, 1983 elections and the subsequent resolution of the Assembly. The Bill seeks to give effect to this object and also provide for matters supplemental, incidental and consequential to such abolition.

NEW DELHI;
March 26, 1985.

G. BHOOPATHY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make such adaptations and modifications of any law made before the commencement of the Act as may be necessary or expedient in consequence of the abolition of the Legislative Council of the State of Andhra Pradesh under clause 3. This power will be available only for a period of one year from the commencement of the Act. The adaptations and modifications cannot affect the substance of the laws adapted.

The delegation of legislative power is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General

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